

Customer No.: 31561
Application No.: 10/707,358
Docket No.: 11417-US-PA

REMARKS

In response to the Restriction Requirement mailed on August 9, 2004, regarding to the above-identified application, Applicant elects group 1: semiconductor device and species 2: Fig 2A~2D, specified in claims 20, 21, 25 and 26, with traverse according to the following remarks. Applicants also reserve the right to pursue the subject matter of the non-elected claims in a divisional application if Applicants so choose.

As defined in MPEP §806.04(e), the term "species" is defined as the "specifically different embodiments" of an invention disclosed in the patent application. However, the fig. 10 and fig. 12 are the top view diagrams of a semiconductor device as shown in figs 2A~2D and figs 5A~5D respectively. The elected species related to Figs. 2A~2D and the asserted species related to Fig.9 are same embodiment of the invention. The species related to Figs. 5A~5D and the species related to Fig.12 are same embodiment of the invention. A restriction to one thereof is thus not proper. Besides, the semiconductor device as defined in Figs. 2A~2D, Figs. 1A~1D, Figs. 3A~3D, Figs.4A~4D, Figs.5A~5D, Fig. 6, Fig.10 or Fig.12 are related that the cap layer and the spacer are previously occupied, a low dielectric constant material is formed to lower the parasitic capacitance of the integrated circuits. Claim 20 is the generic claim encompassing the species 1~6, 9

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and 10 as defined in Figs. 1A~1D, Figs. 2A~2D, Figs. 3A~3D, Figs. 4A~4D, Figs. 5A~5D, Fig. 6, Fig. 10 and Fig. 12. If the generic claim is held allowable, an applicant may include additional claims directed to a reasonable number of species so long as these additional claims "are written in dependent form or otherwise include all the limitations of the generic claim." Therefore, Applicants respectfully request the restriction requirement of the species related to Figs. 2A~2D, Figs. 1A~1D, Figs. 3A~3D, Figs. 4A~4D, Figs. 5A~5D, Fig. 6, Fig. 10 and Fig. 12 be withdrawn. The claims 22, 23, 24 and 27 related to the species defined in Figs. 1A~1D, Figs. 3A~3D, Figs. 4A~4D, Figs. 5A~5D, Fig. 6, Fig. 10 or Fig. 12 should be examined in the application.

In view of the foregoing, Applicants respectfully request reconsideration and the restriction requirement of Figs. 1A~1D, Figs. 3A~3D, Figs. 4A~4D, Figs. 5A~5D, Fig. 6, Fig. 10 and Fig. 12 specified in claims 22, 23, 24 and 27 be traversed. In the event a telephone conversation would expedite the prosecution of this application, the Examiner is encouraged to contact the undersigned attorney to discuss the application.

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